

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JON PATERSON and JON PATERSON LLC,

Plaintiffs,

-v-

PAT MCGRATH COSMETICS, LLC d/b/a/ PAT
MCGRATH LABS,

Defendant.
-----X

24 Civ. 4025 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

The Complaint in this action was filed on May 24, 2024. Dkt. 1. Defendant has not appeared in this action, and the docket does not reflect whether Defendant has been served. Nor have Plaintiffs requested an extension of time to serve Defendant. Pursuant to Federal Rule of Civil Procedure 4(m), “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m).

Accordingly, Plaintiffs are ordered to file a status letter by September 6, 2024, describing (1) whether service of the summons and Complaint has been made on Defendant, and if not, (2) why good cause exists to excuse Plaintiffs’ failure to serve Defendant within the 90-day deadline set by Rule 4(m). *See* Fed. R. Civ. P. 4(m) (“[I]f the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.”). The Court reminds Plaintiffs that “[t]o establish good case a plaintiff must demonstrate that despite diligent attempts, service could not be made due to exceptional circumstances beyond his or her control.” *Deptula v. Rosen*, 558 F. Supp. 3d 73, 75 (S.D.N.Y. 2021) (internal quotation marks omitted).

Plaintiffs must file this letter even if service of the Summons and Complaint is or has already been made on Defendant. If Defendant has been served, Plaintiffs must also file proof of service on the docket no later than September 6, 2024. If no such letter is filed, the Court may dismiss the case for failure to prosecute.

SO ORDERED.

Dated: September 3, 2024
New York, New York

A handwritten signature in black ink, appearing to read "John P. Cronan", written over a horizontal line.

JOHN P. CRONAN
United States District Judge